



City of Norfolk

Invitation For Bids
IFB 5007-0-2016/SH-Kerosene (K-1) and Number Two (2) Fuel Oil
Issued: June 8, 2016

The City of Norfolk (the "City") and the Department of General Services is seeking a responsive and responsible bidder to furnish and deliver "Kerosene (k-1) and Number two (2) Fuel Oil" to various locations throughout the City in accordance with the terms, conditions, and specifications of this solicitation.

Bid Opening Date and Time: June 29, 2016 @ 2:00 PM Eastern Time

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1___ #2___ #3___ #4___ (Please Initial)

THE UNDERSIGNED AGREES TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION, IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND REQUIREMENTS SPECIFIED HEREIN. THE SIGNATURE BELOW SHALL BE PROVIDED BY AN AGENT AUTHORIZED TO BIND THE COMPANY. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN BID REJECTION.

| | |
|---|--|
| Bidder Legal Name: | |
| Virginia State Corporation Commission Number: | |
| Bid Contact Name: | |
| Bid Contact E-mail Address: | |
| Bid Contact Telephone Number: | |
| Authorized Agent Signature: | |
| Authorized Agent Name (Printed): | |
| Authorized Agent Contact E-mail: | |
| Authorized Agent Contact Phone: | |
| Date: | |

I HEREBY CERTIFY THAT MY BID IS IN FULL COMPLIANCE WITH THIS SOLICITATION AND ALL THE TERMS AND CONDITIONS IMPOSED HEREIN AND AGREE TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION, ACCORDINGLY. AS THE UNDERSIGNED REPRESENTATIVE FOR THE BIDDER, I ALSO CERTIFY THAT I AM AN AGENT AUTHORIZED TO BIND MY COMPANY TO THIS BID AND UNDERSTAND THAT FAILURE TO SIGN THIS BID MAY RESULT IN OUR BID BEING REJECTED.

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THE CITY CURRENTLY USES IN EXCESS OF **75,000** GALLONS OF **NUMBER TWO (2)** FUEL OIL AND OVER **3,500** GALLONS OF KEROSENE ANNUALLY. THE CURRENT FUEL CONSUMPTION IS NOT ONLY FOR DAILY USE, BUT FOR USE IN THE EVENT OF A DECLARED EMERGENCY OR NATURAL DISASTER WHICH WILL ALLOW THE CITY TO REMAIN OPERATIONAL. THE CITY SHALL BE INVOICED UPON DELIVERY OF PRODUCT USING AN AVERAGE PRICE PER GALLON FOR EACH PRODUCT..... 5

THE QUOTED QUANTITIES ARE THE BEST CURRENTLY AVAILABLE ESTIMATES. THE CITY SHALL NOT BE OBLIGATED TO PURCHASE ANY MINIMUM OR MAXIMUM SPECIFIC QUANTITY, BUT RESERVES THE RIGHT TO PURCHASE QUANTITIES BASED ON ACTUAL NEEDS. 5

C. SCOPE OF WORK:..... 5

THE BIDDER SHALL FURNISH AND DELIVER **NUMBER TWO (2)** FUEL OIL AND KEROSENE TO VARIOUS LOCATIONS (SEE LIST BELOW) THROUGHOUT THE CITY IN ACCORDANCE WITH ALL TERMS, SPECIFICATIONS, AND CONDITIONS CONTAINED IN THIS SOLICITATION. 5

THE ATTACHED LIST CONTAINS THE DELIVERY LOCATIONS, TANK SIZES, AND ESTIMATED ANNUAL USAGE. THE CITY OF NORFOLK RESERVES THE RIGHT TO ADD OR DELETE LOCATIONS AS IT DEEMS NECESSARY. PRODUCTS OFFERED SHALL BE BRAND NAME AS MARKETING IN RETAIL OUTLETS. DELIVERIES SHALL BE MADE BY TRUCK IN THE QUANTITIES NEEDED, **FOB DESTINATION**. SERVICE AND DELIVERY SHALL OCCUR WITHIN FOUR **(4)** HOURS AFTER ORDER IS RECEIVED BETWEEN THE HOURS OF **7:00 AM** AND **5:00 PM**. **METERED** DELIVERY TICKETS SHALL BE FURNISHED FOR ALL DELIVERIES. SERVICE SHALL BE RENDERED AS OFTEN AS MAY BE REQUIRED, ESPECIALLY DURING A DECLARED EMERGENCY SITUATION OR NATURAL DISASTER THAT THREATENS THE DAY-TO-DAY OPERATIONS OF THE CITY..... 5

IN THE EVENT THAT A DISASTER EMERGENCY IS DECLARED BY THE CITY, THE CITY RESERVES THE RIGHT TO OBTAIN SUCH PRODUCTS OR SERVICES FROM ANY SOURCE, INCLUDING BUT NOT LIMITED TO A CONTRACT AT THE CITY’S SOLE DISCRETION IN ORDER TO MEET THE NEEDS OF SUCH EMERGENCY. IN AN EMERGENCY, THE BIDDER SHALL BE PREPARED TO PROVIDE CONTINUOUS TWENTY-FOUR **(24)** HOUR SERVICE AS DIRECTED BY THE CITY. FOR THE PURPOSE OF MAINTAINING COMMUNICATION AND SERVICES, THE BIDDER SHALL DESIGNATE A PRIMARY AND IF AVAILABLE, A SECONDARY CONTACT PERSON AS BACK-UP FOR EMERGENCY SITUATIONS..... 5

IN ACCORDANCE WITH THE CITY OF NORFOLK’S EMERGENCY AND HURRICANE PREPAREDNESS, THE CITY MAY REQUEST THAT THE SUCCESSFUL BIDDER PROVIDE ON-SITE FUEL STORAGE TANKS TO PROVIDE FUEL FOR EMERGENCY GENERATORS OPERATING DURING A HURRICANE OR EMERGENCY. IN YOUR RESPONSE TO THIS SOLICITATION, PLEASE LIST THE NUMBER OF AUXILIARY FUEL TANKS THAT YOUR COMPANY WOULD BE ABLE TO PROVIDE IF REQUESTED. 6

THE BIDDER SHALL BE RESPONSIBLE FOR THE PROMPT CLEANUP OF ANY SPILLAGE. THE BIDDER SHALL ALSO BE RESPONSIBLE FOR ALL EXPENSES INCURRED FOR THE REMOVAL OF ANY PRODUCT DELIVERED WHICH IS DEEMED UNSATISFACTORY. 6

D. SPECIFICATIONS: 8

THE BIDDER SHALL PROVIDE **NUMBER TWO (2)** FUEL OIL AND KEROSENE **(K-1)**, ACCORDING TO THE FOLLOWING SPECIFICATIONS: 8

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| 1) NUMBER TWO (2) FUEL OIL: SHALL BE FOR OFF ROAD APPLICATION, SULFUR CONTENT SHALL NOT EXCEED 0.5% WEIGHT IN ORDER TO MEET EPA AND IRS REQUIREMENTS FOR RED DYE CONCENTRATION..... | 8 |
| 2) KEROSENE (K-1): SHALL MEET THE FOLLOWING SPECIFICATIONS:..... | 8 |
| I. COLOR-CLEAR (SAYBOLT NO., MINIMUM) (+16). | 8 |
| II. SULFUR, % WT., MAX. 0.04. | 8 |
| III. DISTILLATION TEMP., °F 10% RECOVERED, MAX 401. END POINT MAX. 572. | 8 |
| IV. FLASH POINT, °F, MINIMUM 100..... | 8 |
| V. FREEZING POINT, °F, MAX. -22..... | 8 |
| VI. VISCOSITY @ 40°C, cSt, MINIMUM = 1.0, MAXIMUM = 1.9 | 8 |
| VII. BURNING QUALITY = PASS. | 8 |
| VIII. CORROSION, COPPER STRIP RATING, MAX. (3 HRS. @ 100°C) | 8 |
| IX. KEROSENE SHALL CONTAIN A SUFFICIENT AMOUNT OF RED DYE TO MEET TAX AGENCY REGULATIONS IF SULFUR CONTENT IS ABOVE 0.05%. | 8 |
| X. FUEL QUALITY: THE BIDDER SHALL DELIVER “NAME-BRAND” NUMBER TWO (2) FUEL OIL AND KEROSENE (K-1), THAT IS USED BY THE PUBLIC. THIS REQUIREMENT IS INTENDED TO ELIMINATE THE RISK OF CITY RECEIVING CONTAMINATED OR OTHERWISE LESS THAN SATISFACTORY PRODUCTS..... | 8 |
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The bidder shall submit to the City, the basis for prices quoted and price escalation and it shall be published. The most current up-to-date publicly posted consumer tank wagon price in Norfolk, Virginia shall be utilized for verification of prices and shall be included in bid. All pricing, shall include any Federal, State or Local taxes or fees such as, but not limited to Federal lust tax, Federal spill tax and Virginia storage tank fee..... 8

Posted tank wagon prices shall be as published in Platts Oilgram, Oil daily, Oil Buyers Guide, N.Y. Journal of Commerce, or OPIS. If selecting Oil Price Information Service (OPIS), the bidder shall identify which index is utilized and what methodology was used to determine that the selected index is in the best interest of the City and why. 8

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SECTION I – SCOPE OF SERVICES

A. **PURPOSE:**

The City of Norfolk (“City”) and the Department of General Services is soliciting bids from responsive and responsible bidders to furnish and deliver “Kerosene (K-1) and Number Two (2) Fuel Oil to various locations throughout the City according to the terms, conditions, and specifications of this solicitation.

All qualified bidders are invited to respond to this Invitation For Bid (“IFB”) by submitting a bid consistent with all the requirements of this solicitation.

The initial term of this contract shall be for a one (1) year term with four (4) optional renewable periods, which are subject to the availability of funds. The successful bidder shall be available for delivery within fifteen (15) days’ notice of award. To be considered responsive to this solicitation, bidders must submit pricing for all five (5) years on the attached bid pricing sheet.

B. **BACKGROUND:**

The City currently uses in excess of 75,000 gallons of Number two (2) fuel oil and over 3,500 gallons of Kerosene annually. The current fuel consumption is not only for daily use, but for use in the event of a declared emergency or natural disaster which will allow the City to remain operational. The City shall be invoiced upon delivery of product using an average price per gallon for each product.

The quoted quantities are the best currently available estimates. The City shall not be obligated to purchase any minimum or maximum specific quantity, but reserves the right to purchase quantities based on actual needs.

C. **SCOPE OF WORK:**

The bidder shall furnish and deliver Number two (2) fuel oil and Kerosene to various locations (see list below) throughout the City in accordance with all terms, specifications, and conditions contained in this solicitation.

The attached list contains the delivery locations, tank sizes, and estimated annual usage. The City of Norfolk reserves the right to add or delete locations as it deems necessary. Products offered shall be brand name as marketed in retail outlets. Deliveries shall be made by truck in the quantities needed, FOB Destination. Service and delivery shall occur within four (4) hours after order is received between the hours of 7:00 AM and 5:00 PM. Metered delivery tickets shall be furnished for all deliveries. Service shall be rendered as often as may be required, especially during a declared emergency situation or natural disaster that threatens the day-to-day operations of the City.

In the event that a disaster emergency is declared by the City, the City reserves the right to obtain such products or services from any source, including but not limited to a contract at the City’s sole discretion in order to meet the needs of such emergency. In an emergency, the bidder shall be prepared to provide continuous twenty-four (24) hour service as directed by the City. For the purpose of maintaining communication and services, the bidder shall designate a primary and if available, a secondary contact person as back-up for emergency situations.

In accordance with the City of Norfolk's emergency and hurricane preparedness, the City may request that the successful bidder provide on-site fuel storage tanks to provide fuel for emergency generators operating during a hurricane or emergency. In your response to this solicitation, please list the number of auxiliary fuel tanks that your company would be able to provide if requested.

The bidder shall be responsible for the prompt cleanup of any spillage. The bidder shall also be responsible for all expenses incurred for the removal of any product delivered which is deemed unsatisfactory.

| Department | Location | Address | Phone # | Type | Size of Tank | Est. Usage |
|-----------------------------------|----------------------|------------------------|----------------|-------------|---------------------|-------------------|
| Civic Facilities | Scope | 201 E. Brambleton Ave | 757-664-6972 | #2 Fuel Oil | 2, 000 Gal | 7,500 Gal. |
| Civic Facilities | McArthur Memorial | McArthur Square | 757-441-2965 | #2 Fuel Oil | 1,000 Gal | 500 Gal. |
| Human Services | Juvenile Detention | 1260 Security Lane | 757-664-6017 | #2 Fuel Oil | 15,000 Gal | 1,000 Gal. |
| Zoo | Virginia ZOO | Greenhouse | 757-441-5240 | #2 Fuel Oil | 550 Gal | 5,600 Gal. |
| Public Works | School Admin Bldg. | 800 E. City Hall Ave. | 757-441-2886 | #2 Fuel Oil | 10,000 Gal | 1,500 Gal. |
| Public Works | Central Energy | 920 East Main Street | 757-441-2886 | #2 Fuel Oil | 15,000 Gal Tank 1 | 5,000 Gal. |
| Public Works | Central Energy | 920 East Main Street | 757-441-2886 | #2 Fuel Oil | 15,000 Gal Tank 2 | 5,000 Gal. |
| Recreation, Parks and Open Spaces | Cemeteries | Elmwood | 757-441-2576 | #2 Fuel Oil | 275 Gal | 435 Gal. |
| Public Works | Taylor Whittle House | 227 E. Freemason St. | 757-441-2886 | #2 Fuel Oil | 750 Gal | 2,050 Gal. |
| Public Works | Solid Waste | 1176 Pine Ridge Road | 757-441-5813 | #2 Fuel Oil | 2,500 Gal | 7,500 Gal. |
| Fire | Station 3 | 121 E. VA. Beach Blvd. | 757-441-6663 | #2 Fuel Oil | 1,000 Gal | 4,000 Gal. |
| Fire | Station 13 | 176 Maple Avenue | 757-441-6663 | #2 Fuel Oil | 1,000 Gal | 3,000 Gal. |
| PW Asphalt Plant | McKann Avenue | 2205 McKann Avenue | 757-823-4050 | #2 Fuel Oil | 1,000 Gal | 2,000 Gal. |
| Recreation, Parks and Open Spaces | Tree Farm | 513 Saunderson Road | 757-441-2400 | #2 Fuel Oil | 275 Gal | 750 Gal. |

| | | | | | | |
|--------------|-----------------------|---------------------------------|--------------|-------------|-----------------------|------------|
| Utilities | Purification Plant | 37 th Street | 757-441-2652 | #2 Fuel Oil | 10,000 Gal | 6,000 Gal. |
| Utilities | Moore's Bridges | 8040 Waterworks Drive | 757-441-5678 | #2 Fuel Oil | 10,000 Gal | 1,200 Gal. |
| Utilities | Moore's Bridges | 8040 Waterworks Drive | 757-441-5678 | #2 Fuel Oil | 10,000 Gal | 1,200 Gal. |
| Utilities | Western Branch | 113 Lockwood Circle, Suffolk | 757-441-5678 | #2 Fuel Oil | 3-Tanks of 10,000 Gal | 2,000 Gal. |
| Utilities | Chesterfield Ht. Tank | 960 Avenue J. | 757-441-6678 | #2 Fuel Oil | 500 Gal | 500 Gal. |
| Utilities | Little Creek | 2825 Stanhope Avenue | 757-441-5678 | #2 Fuel Oil | 500 Gal | 500 Gal. |
| Finance | Police Operations | 3661 Va. Beach Blvd | 757-441-2886 | #2 Fuel Oil | 5,000 Gal | 500 Gal. |
| Finance | Public Safety (Jail) | 811 E. City Hall Ave | 757-441-2886 | #2 Fuel Oil | 4,000 Gal | 1,000 Gal. |
| Finance | Granby Municipal | 400 Granby Street | 757-441-2886 | #2 Fuel Oil | 175 Gal | 100 Gal. |
| Fire | Station 1 | 450 St. Paul's Blvd. | 757-441-2886 | #2 Fuel Oil | 275 Gal | 275 Gal. |
| Fire | Station 7 | 1211 W. 43 rd Street | 757-441-2886 | #2 Fuel Oil | 275 Gal | 275 Gal. |
| Fire | Station 8 | 526 Fredrick Street | 757-441-6663 | #2 Fuel Oil | 275 Gal | 275 Gal. |
| Finance | Little Creek | 7665 Sewells Point Road | 757-441-2886 | #2 Fuel Oil | 150 Gal | 100 Gal. |
| Finance | School Admin Bldg. | 800 E. City Hall Ave. | 757-441-2886 | #2 Fuel Oil | 5,000 Gal | 100 Gal. |
| Public Works | Solid Waste | 1176 Pine Ridge Road | 757-441-5813 | Kerosene | 275 Gal | 2,000 Gal. |
| | | | | | | |

D. SPECIFICATIONS:

The bidder shall provide Number two (2) fuel oil and Kerosene (K-1), according to the following specifications:

- 1) Number two (2) fuel oil:** Shall be for off road application, sulfur content shall not exceed 0.5% weight in order to meet EPA and IRS requirements for red dye concentration.
- 2) Kerosene (K-1):** Shall meet the following specifications:
 - I. Color-Clear (Saybolt No., minimum) (+16).
 - II. Sulfur, % wt., max. 0.04.
 - III. Distillation Temp., °F 10% recovered, max 401. End Point max. 572.
 - IV. Flash Point, °F, minimum 100.
 - V. Freezing Point, °F, Max. -22.
 - VI. Viscosity @ 40°C, cSt, minimum = 1.0, maximum = 1.9
 - VII. Burning Quality = Pass.
 - VIII. Corrosion, copper strip rating, max. (3 hrs. @ 100°C)
 - IX. Kerosene shall contain a sufficient amount of red dye to meet tax agency regulations if sulfur content is above 0.05%.
 - X. Fuel quality: the bidder shall deliver "Name-Brand" Number two (2) fuel oil and Kerosene (K-1), that is used by the public. This requirement is intended to eliminate the risk of City receiving contaminated or otherwise less than satisfactory products.

E. PRICING:

The bidder shall submit to the City, the basis for prices quoted and price escalation and it shall be published. The most current up-to-date publicly posted consumer tank wagon price in Norfolk, Virginia shall be utilized for verification of prices and shall be included in bid. All pricing, shall include any Federal, State or Local taxes or fees such as, but not limited to Federal lust tax, Federal spill tax and Virginia storage tank fee.

Posted tank wagon prices shall be as published in Platts Oilgram, Oil daily, Oil Buyers Guide, N.Y. Journal of Commerce, or OPIS. If selecting Oil Price Information Service (OPIS), the bidder shall identify which index is utilized and what methodology was used to determine that the selected index is in the best interest of the City and why.

SECTION II - INSTRUCTIONS TO THE BIDDER

A. ISSUING OFFICE:

City of Norfolk
Office of the Purchasing Agent
Attn: Silvester A. Howell, Procurement Specialist
232 E. Main Street, Suite 250
Norfolk, VA 23510
Telephone: (757) 823-4585
Fax: (757) 664-4018
Silvester.howell@norfolk.gov

B. IFB SCHEDULE:

| Event | Date |
|------------------------|------------------------------------|
| IFB Issued | June 8, 2016 |
| Pre-bid conference | June 15, 2016 @ 2:00 PM |
| Question Deadline | June 16, 2016 @ 5:00 PM |
| Addendum issued | June 20, 2016 |
| IFB Due | Wednesday, June 29, 2016 @ 2:00 PM |
| Intent to Award posted | |
| Contract Start | |

C. CONTACT WITH CITY STAFF, REPRESENTATIVES, AND/OR AGENTS:

Direct contact with City staff, representatives, and/or agents other than the Issuing Office staff on the subject of this IFB or any subject related to this IFB is expressly prohibited except with the prior knowledge and permission of the Purchasing Agent.

D. BIDDERS OF RECORD:

Bidders receiving a copy of this IFB from a source other than the Issuing Office should consult the City's Procurement website www.norfolk.gov/purchasing.

E. QUESTIONS, CHANGES, MODIFICATIONS AND ADDENDA:

All questions relating to this solicitation shall be submitted via e-mail to NAME, TITLE in the Office of the Purchasing Agent, at Silvester.howell@norfolk.gov. For a question to be considered, the subject line of the e-mail must state the following: **IFB No. 5007-0-2016/SH Questions**. Questions should be succinct and must include the submitter's name, title, company name, company address, and telephone number. Prior to the award of a contract resulting from this solicitation, bidders are prohibited from contacting City staff other than the Office of the Purchasing Agent.

If any questions or responses require revisions to this solicitation as it was originally published, such revisions will be by formal Addenda only. Bidders are cautioned that any written, electronic, or oral representations made by any City representative or other person that appear to change materially any portion of the solicitation shall not be relied upon unless subsequently ratified by a written Addendum to this solicitation issued by the Office of the Purchasing Agent.

No questions will be considered if they are submitted after June 16, at 5:00 PM.

F. IFB OPENING:

Bidder shall ensure its Bid is time stamped by the Issuing Office no later than the Opening Date and Time shown on the cover page of this IFB. Bids received after the specified date and time will not be considered and will be returned to the Bidder unopened. Bids shall be delivered to:

**Office of the Purchasing Agent
232 E. Main Street, Suite 250
Norfolk, Virginia 23510
IFB 5007-0-2016/SH-Kerosene (K-1) and Number Two (2) Fuel Oil
Attn: Silvester A. Howell, Procurement Specialist**

G. BID SUBMITTAL REQUIREMENTS:

Each Bid shall be submitted to the Issuing Office and shall include the following documents:

- 1) The completed cover page of this IFB, which will contain:
 - a. Original signature of an agent authorized to bind the company
 - b. Requested contact information
 - c. Acknowledgment of any Addendum on page one (1)
- 2) Bid Form (Attachment G)
- 3) Attachments A – G
- 4) [INFORMATION RELATING TO QUALIFICATIONS OF THE BIDDER]
- 5) [REFERENCES]
- 6) Bidders are encouraged to submit their Bids on recycled paper and to use double-sided copying.
- 7) Bids shall be submitted utilizing the following requirements:
 - a. Bidders shall submit bids in a sealed envelope or package, and clearly label the shipping/ mailing packaging as well as the outside of the envelope or package with the IFB number, date and time of the IFB Opening, and the Bidder's name and address. Bids received by telephone, facsimile, or any other means of electronic transfer will not be accepted.
 - b. Include a statement setting forth the basis for protection of all proprietary information, if any.

H. METHOD OF AWARD:

The award of a contract(s) shall be at the sole discretion of the City. Award(s) will be made to the lowest bidder(s) that is responsible whose bid complies with all of the provisions of the IFB, provided that the amount does not exceed the amount of funds available to finance the contract. In the event that a responsive bid from the lowest responsible bidder exceeds available funds, the Purchasing Agent may negotiate the amount of the bid with the apparent low bidder to obtain a contract price within available funds.

The City reserves the right to accept or reject any or all bids in whole or in part and to waive informalities. Bidders shall submit bids, in accordance with the IFB requirements and maintain compliance with all federal, state and local laws and regulations. The contents of the bid of the selected Bidder(s) will be incorporated and made a part of any City contractual obligation when the award(s) is made.

The lowest total cost will be determined by the aggregate sum of all five (5) years of the bid prices received on the bid spread sheet. Please pay special attention to Section "E" Pricing to assist in how pricing shall be submitted. Please see **Attachment G – Bid Form** to submit bid pricing.

Discrepancies between the multiplication of unit prices and extended prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of words.

I. BIDDER CERTIFICATION:

Submission of a signed Bid Form is certification by the respective bidder that it is registered with the Virginia State Corporation Commission, if applicable, it is the legal entity authorized to enter into an agreement with the City, and that it will accept any award made to it as a result of the submission.

J. NONCONFORMING TERMS AND CONDITIONS

If a bidder submits with its bid alternate terms and conditions that do not conform to the terms and conditions in this solicitation, the bid will be subject to rejection as nonresponsive.

K. DISPOSITION OF BIDS:

All materials submitted in response to this IFB will become the property of the City. One (1) copy of each bid shall be retained for official files and will become a public record after the award and open to public inspection. It is understood that the bid will become a part of the official file on this matter without obligation on the part of the City except as to the disclosure restrictions contained in Section II, L. "Disclosure."

L. DISCLOSURE:

In compliance with the Code of the City of Norfolk, Virginia Section 33.1-9, trade secrets or proprietary information submitted by contractors in connection with a procurement shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidders must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify

the specific area or scope of data or other materials to be protected and state the reasons why protection is necessary. An all-inclusive statement that the entire bid is proprietary is unacceptable and will not be honored. A statement that costs are to be protected is unacceptable and will be disregarded.

M. COST INCURRED IN RESPONDING:

This solicitation does not commit the City to pay any costs incurred in the preparation and submission of bids or in making necessary studies or designs for the preparation thereof, nor to procure or contract for services.

N. BRAND NAME "OR EQUAL" SPECIFICATIONS:

The provisions of Section 33.1-52 City Code apply. If and wherever in this IFB a brand name, make, name of any manufacturer, trade name, or vendor catalog number is mentioned, it is for the purpose of establishing a grade or quality of material only. Since the City does not wish to rule out other competition and equal brands or makes, the phrase OR AN APPROVED EQUAL is added. However, if a product other than that specified is bid, it is the vendors' responsibility to name such a product within the bid and to prove to the City that said product is equal to that specified. In all instances where an "or equal" or an alternate item is offered, bidders are to include a statement that the item being offered meets the specifications of the requested item. Additionally, bidders shall list all deviations from the listed specifications. Submission of specification sheets, brochures, or published literature describing the item being offered does not fulfill this requirement. Any article which the City in its sole discretion determines to be equal of that specified, considering quality, workmanship, economy or operation, and suitability for the purpose intended, shall be accepted.

O. ANTI-COLLUSION:

Collusion or restraint of free competition, direct or indirect, is prohibited. Contractors are required to execute the anti-collusion statement. See Attachment A.

P. ETHICS IN PUBLIC CONTRACTING:

The contractor shall familiarize itself with Chapter 33.1, Article VII (Sections 33.1-86 through 33.1-93) of the Code of the City of Norfolk, Virginia, 1979, as amended, entitled "ETHICS IN PUBLIC CONTRACTING," including the additional statutes set forth in Section 33.1-86 thereof, which are attached. The contractor shall abide by such provisions in submission of its bid and performance of any contract awarded. See Attachment B.

Q. NONDISCRIMINATION:

The contractor agrees that it will adhere to the nondiscrimination requirements set forth in the Code of the City of Norfolk Section 33.1-53, which will be incorporated into any contract awarded. See Attachment C.

R. DEBARMENT CERTIFICATION:

The certification regarding debarment, suspension, proposed debarment, and other responsibility matters attached to this IFB must be executed and returned with bid documents. See Attachment D.

S. BIDDER INVESTIGATIONS:

Before submitting a bid, each bidder must make all investigations and examinations necessary to ascertain all conditions and requirements affecting the full performance of the contract and to verify any representations made by City upon which the bidder will rely. No claims of ignorance of such conditions and requirements resulting from failure to make such investigations and examinations will relieve the successful bidder from its obligation to comply in every detail with all provisions and requirements of the contract documents or will be accepted as a basis for any claim whatsoever for any monetary consideration on the part of the successful bidder.

T. INCOMPLETE DOCUMENTS:

Each bidder is responsible for having determined the accuracy and/or completeness of the solicitation documents upon which it relied in making its bid, and has an affirmative obligation to notify the City Purchasing Agent immediately upon discovery of an apparent or suspected inaccuracy, error in, or omission of any pages, drawings, sections, or addenda whose omission from the documents was apparent from a reference or page numbering or other indication in the solicitation documents.

If the successful bidder proceeds with any activity that may be affected by an inaccuracy, error in, or omission in the solicitation documents of which it is aware but has not notified the City Purchasing Agent, the bidder hereby agrees to perform any activity described in the missing or incomplete documents at bidder's sole expense and at no additional cost to City.

U. QUALIFICATION OF BIDDERS:

Each bidder may be required, before the award of contract, to show to the complete satisfaction of the Purchasing Agent that it has the necessary facilities, ability, and financial resources to comply with the contract and furnish the service, material or goods specified herein in a satisfactory manner. Each bidder may also be required to provide past history and references which will enable the Purchasing Agent to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will result in bid rejection by the City.

V. ALTERNATE BID:

Bidders who have other items they wish to offer in lieu of, or in addition to, what is required by this solicitation shall submit a separate bid clearly marked "ALTERNATE BID". Alternate bids will be automatically deemed nonresponsive and will not be considered for award. Such bids will, however, be examined prior to awarding the contract contemplated herein and may result in either cancellation of all bids in order to permit rewriting of the solicitation to include the alternate item in a rebid or the alternate item may be considered for future requirements.

W. INFORMALITIES:

The City reserves the right to waive minor defects or variations from the exact requirements of the solicitation in a bid insofar as those defects or variations do not affect the price, quality, quantity, or

delivery schedule of the services being procured. If insufficient information is submitted for the City to properly evaluate the bid by a bidder; the City reserves the right to require such additional information as it may deem necessary after the bid opening time and date, provided that the information requested does not change the price, quality, quantity, or delivery schedule for the services being procured.

X. CITY OF NORFOLK BUSINESS LICENSES:

The successful bidder must comply with the provisions of Chapter 24 ("Licenses and Taxation") of the City of Norfolk Code, if applicable. For information on the provisions of that Chapter and its applicability to this Agreement, the Contractor must contact the City of Norfolk Business License Division, Office of the Commissioner of the Revenue, 810 Union Street, City Hall, First Floor, West Wing, Norfolk, Virginia 23510.

Y. AUTHORITY TO TRANSACT BUSINESS:

Any bidder organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. The proper full and legal name of the firm or entity and the identification number issued to the bidder by the State Corporation Commission must be written in the space provided on the Bid Form. Any bidder that is not required to be authorized to transact business in Virginia shall include in its bid a statement describing why the bidder is not required to be so authorized. The City may require a firm to provide documentation prior to award which: 1) clearly identifies the complete name and legal form of the firm or entity (i.e. corporation, limited partnership, etc.), and 2) establishes that the firm or entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of a prospective and/or successful bidder to provide such documentation shall be grounds for rejection of the bid or cancellation of the award. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: www.scc.virginia.gov.

Z. BID WITHDRAWAL PRIOR TO BID OPENING:

No bid can be withdrawn after it is filed with the Office of the Purchasing Agent unless the bidder makes a request in writing to the Purchasing Agent prior to the time set for the opening of bids.

AA. WITHDRAWAL OF BID FROM CONSIDERATION AFTER BID OPENING:

After the opening of a bid, a bidder may withdraw its bid from consideration if the price of the bid is substantially lower than other bids due solely to a mistake therein, provided the bid is submitted in good faith, the mistake is a clerical mistake as opposed to a judgment mistake, and is actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. No partial withdrawals of bids will be permitted after the time and date set for the bid opening. The bidder must give notice in

writing to the City Purchasing Agent of a claim of right to withdraw a bid and provide all original work papers, documents and other materials used in the preparation of the bid sought to be withdrawn, within two (2) business days after the date of bid opening. A bid may also be withdrawn if the City fails to award or issue a notice of intent to award the bid within ninety (90) days after the date fixed for opening bids.

BB. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR ACKNOWLEDGEMENT:

Bidders acknowledge that the contract that will be entered into as a result of this solicitation will not obligate the City to purchase a specific quantity of items or services during the Contract Term. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the City for the period of the Contract. The amount is only an estimate and the Bidder understands and agrees that the City is under no obligation to the Bidder to buy that amount, or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. Bidders further understand that the City may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices and/or rates set forth in the resulting Contract. Further, bidders acknowledge that the items or services covered by this contract may be available or become available under other City contract(s), and that in analyzing its needs, the City may determine that it is in its best interest to procure the items or services through such other contract(s). Therefore, the City does not guarantee that the Bidder will be the exclusive provider of the goods or services covered by the resulting contract.

CC. INTEREST IN MORE THAN ONE BID AND COLLUSION:

Multiple bids received in response to this solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a Bidder is interested in more than one (1) bid for a solicitation both as a Bidder and as a subcontractor for another Bidder will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two (2) or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

DD. NOTICE OF DECISION TO AWARD:

When the City has made a decision to award a contract, an e-mail with a Notice of Decision to Award will be sent to all Bidders, using the email address provided in the Bid Form.

SECTION III – CONTRACT TERMS AND CONDITIONS

TERM AND/OR TIME OF PERFORMANCE

The term of the resulting agreement shall be for a period of one (1) year with four (4) optional renewable periods, beginning fifteen (15) days after the execution of the contract and is subject to the availability of funds.

INSURANCE REQUIREMENTS –

The Contractor shall indemnify and save harmless the City of Norfolk, Virginia and its representatives from and against losses and claims, demands, suits, actions, payments and judgments arising from personal injury or otherwise, brought or recovered against the City or its representatives by reason of any negligent act or omission of the Contractor, its agents, servants or employees, in the execution of the contracted work, including any and all expense, legal and otherwise, incurred by the City or its representatives in the defense of any claim or suit.

Contractor shall maintain during the term of this agreement insurance of the types and in the amounts described below. All general liability and automobile/vehicle liability policies will be written in an "occurrence" form unless otherwise specifically approved by the City. The CITY OF NORFOLK and its employees will be included as "Additional Insured" on such policies. All insurance policies affected by this agreement shall be primary and noncontributory to any other insurance or self-insurance maintained by the City. Insurance shall be written on an approved ISO form for coverage in the Commonwealth of Virginia Insurance policies shall provide that the Contractor will receive at least thirty (30) days written notice in the event of cancellation of, or material change in, any of the policies. If the Contractor fails to maintain the insurance as set forth in this Agreement, the City shall have the right, but not the obligation, to purchase such insurance at Contractor's expense

COMMERCIAL GENERAL LIABILITY INSURANCE. Commercial General Liability Insurance (CGL) with a limit of not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate. Umbrella or Excess liability insurance may be used to provide these limits. Such insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and liability assumed under insured contract.

WORKER'S COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE: The Contractor shall maintain Workers' Compensation Insurance as required by Virginia statutes for work performed in, or for, the City of Norfolk, Virginia, and Employer's Liability Insurance with a limit of at least \$500,000 per accident/disease, and policy limit of \$500,000.

AUTOMOBILE/MOTOR VEHICLE LIABILITY INSURANCE with a limit of not less than \$1 million combined single limit; or, Bodily Injury \$500,000 each person, \$1,000,000 accident, and Property Damage \$100,000 each accident. Such insurance shall cover liability arising from any

motor vehicle as defined by Commonwealth of Virginia laws and shall include coverage for owned, hired and non-owned motor vehicles, as well as uninsured and underinsured motorists.

POLLUTION LIABILITY INSURANCE with limits of at least \$1,000,000 covering any sudden and/or non-sudden pollution or impairment of the environment, including clean-up and defense costs, that arise from the operations within the scope of this agreement including the filling of tanks and transportation of fuels. The coverage shall be maintained during the term of the work and, if the insurance is a claims-made form, for at least two (2) years following the completion of all operations or services related to the work. The City of Norfolk & its employees shall be named as additional insured on each insurance policy, and extended reporting period. Such liability insurance coverage may be provided either by separate policies or in combination with other liability insurance required in this RFP. The minimum acceptable limits of liability to be provided by such liability Insurance shall be: not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

INSURANCE POLICIES/CERTIFICATE OF INSURANCE CONTRACTOR shall furnish the CITY with two (2) copies of the policies, or a certificate(s) of insurance evidencing policies, required in this section. The certificate(s) shall specifically indicate that the insurance includes any extensions of coverage as required above. In the event of cancellation of, or material change in, any of the policies, the Contractor shall notify the City within at least 14 days after receiving notice of such cancellation or policy change and provide evidence that insurance coverage is in place to meet the requirements of this RFP. If coverage on said certificate(s) is shown to expire prior to completion of all terms of the Agreement/Contract resulting from this RFP, the Contractor shall furnish a certificate of insurance evidencing renewal of such coverage to the CITY within 10 days of the effective date of such renewal. All certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the requirements of this RFP. Failure of the City or of the City's designated agents for the Work to (1) demand such certificates or other evidence of full compliance with these requirements, and, or (2) identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.

SUBCONTRACTOR'S INSURANCE: The Contractor shall require each of his sub-contractors to take out and maintain during the life of the subcontract insurance coverage of the same type and limits required of the Contractor for work performed by the sub-contractor under this RFP. Each sub-contractor shall furnish to the Contractor two (2) copies of the policies, or certificates of insurance, evidencing such insurance. The sub-contractor shall comply with the same requirements regarding indications of coverage, renewal and submission of policies as is required of the Contractor. The Contractor shall furnish at least one copy the sub-contractor's policies/certificate to the City.

INDEMNIFICATION

The Contractor shall indemnify and save harmless the City and its representatives from and against all losses and claims, demands, suits, actions, payments, and judgments arising from personal injury or otherwise, brought or recovered against the City and its representative by reason of any act, negligence or omission of the Contractor, its agents, servants or employees, in the execution of the contracted work, including any and all expense, legal and otherwise, incurred by the City or its representatives in the defense of claim or suit. This paragraph shall survive the expiration or termination of this Agreement.

PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the City for work performed by any subcontractor under this Agreement:

- a. Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under this Agreement; or
- b. Notify the City and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the City for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the City. A Contract modification or Amendment to this Agreement may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

FORCE MAJEURE

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Agreement if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond control of the Contractor, and outside and beyond the scope of the Contractor's then current, by industry standards, disaster plan, that make performance impossible or illegal, unless otherwise specified in the Contract.

The City shall not be held responsible for failure to perform its duties and responsibilities imposed by this Agreement if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond control of the City that make performance impossible or illegal, unless otherwise specified in the Contract.

NOTICES

All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly made when received by U.S. Mail or hand-delivery.

Notices to the City shall be addressed as follows:

City Manager
City of Norfolk
1101 City Hall Building
810 Union Street
Norfolk, Virginia 23510.

With copy to:

City Attorney
City of Norfolk
900 City Hall Building
810 Union Street
Norfolk, Virginia 23510

Notices to Contractor shall be addressed to the name and/or title of the Contractor as set forth on Page 1 of the Bid.

CITY OF NORFOLK BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 24 ("Licenses and Taxation") of the City of Norfolk Code, if applicable. For information on the provisions of that Chapter and its applicability to this Agreement, the Contractor must contact the City of Norfolk Business License Division, Office of the Commissioner of the Revenue, 810 Union Street, City Hall, First Floor, West Wing, Norfolk, Virginia 23510.

DEFAULT AND TERMINATION -

If Contractor fails or refuses to perform any of the terms of this Agreement, including poor services, work or materials, the City may, by written notice to Contractor, terminate this Agreement in whole or in part. In addition to any right to terminate, the City may enforce any remedy available at law or in equity in connection with such default, and Contractor shall be liable for any damages to the City

resulting from Contractor's default. The City further reserves the right to immediately obtain such work or services from other entities in the event of Contractor's default.

SUSPENSION OR TERMINATION OF AGREEMENT BY CITY [MAY VARY]

The City, at any time, may order Contractor to immediately stop work on this Agreement, and/or by thirty (30) days written notice may terminate this Agreement, with or without cause, in whole or in part, at any time. Upon receipt of such notice, the Contractor shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data (including electronic data), drawings, specifications, reports, project deliverables, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this Agreement whether completed or in process (unless otherwise directed by the notice).

- A. If the termination or stop work order is due to the failure of the Contractor to fulfill any of its Agreement obligations, the City may take over the Work and prosecute the same to completion by contract or otherwise.
- B. Should the Agreement be terminated or work is stopped not due in any way to the fault of the Contractor, the Contractor shall only be entitled to compensation for services actually performed and materials actually supplied prior to notice of termination or to stop work and which are approved by the City and any applicable federal or state approving agency. No profit, overhead, or any other costs of any type are allowed after the date of such notice of termination or stop work order.
- C. The rights and remedies of the City provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement and City may pursue any and all such rights and remedies against Contractor as it deems appropriate.

ASSIGNMENT

Contractor shall not assign, transfer, subcontract, or otherwise dispose of its rights or duties under this Agreement to any other person, firm, partnership, company, or corporation without the previous consent in writing of the City.

INDEPENDENT CONTRACTOR

Contractor shall at all times act as an independent contractor in the performance of this Agreement. Neither Contractor nor its employees or agents shall represent themselves to be, or be deemed to be, employees of the City.

SEVERABILITY

If any provisions of this Agreement are held to be unenforceable, this Agreement shall be construed without such provisions.

WAIVER

The failure by a party to exercise any right hereunder shall not operate as a waiver of such party's right to exercise such right or any other right in the future.

CHANGES

This Agreement may be amended only by a written document executed by a duly authorized representative of each of the parties.

GOVERNING LAW AND VENUE

This Agreement is made under and shall be construed according to the laws of the Commonwealth of Virginia. Venue, in the event of litigation, shall be in City of Norfolk.

ETHICS IN PUBLIC CONTRACTING

Contractor hereby certifies that it has familiarized itself with §§33.1-86 through 33.1-93 of the Code of the City of Norfolk, Virginia, 1979, as amended, entitled "Ethics in Public Contracting," and further that all amounts received by Contractor, pursuant to this Agreement are proper and in accordance therewith.

NONDISCRIMINATION

In the performance of this Agreement, Contractor agrees that it will adhere to the nondiscrimination requirements set forth in §33.1-53 of the Code of the City of Norfolk, Virginia, 1979, as amended.

DRUG FREE WORKPLACE

During the performance of this Agreement, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor by the City, the employees of which Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract. As a condition of continued service on the contract, any Contractor personnel assigned to this project may be required to submit to an alcohol/drug test at any time.

COMPLIANCE WITH FEDERAL IMMIGRATION LAW

The Contractor shall certify that, at all times during which any term of an agreement resulting from this solicitation is in effect, it does not and shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General.

AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH

Contractor hereby represents that it is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership and is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

SECTION IV- ATTACHMENTS

ATTACHMENT A – ANTI-COLLUSION STATEMENT

TO ALL BIDDERS: EXECUTE AND RETURN WITH BID DOCUMENTS.

In the preparation and submission of this bid, on behalf of _____ (name of Bidder), we did not either directly or indirectly enter into any combination or arrangement with any person, firm or corporation, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free competition in violation of the Sherman Anti-Trust Act, 15 USCS Sections 1 et seq., or the Conspiracy to Rig Bids to Government statutes, Virginia Code Sections 59.1-68.6 through 59.1-68.8.

The undersigned Bidder hereby certifies that this agreement, or any claims resulting there from, is not the result of, or affected by, any act of collusion with, or any act of, another person or persons, firm or corporation engaged in the same line of business or commerce; and, that no person acting for, or employed by, the City of Norfolk has an interest in, or is concerned with, this bid; and, that no person or persons, firm or corporation, other than the undersigned, have or are interested in this bid.

Name _____

Signature _____

Title _____

Date _____

Company _____

ATTACHMENT B - ETHICS IN PUBLIC CONTRACTING

Sec. 33.1-86. - Purpose.

The provisions of this chapter supplement, but do not supersede, other provisions of law including but not limited to, the State and Local Government Conflict of Interests Act (Virginia Code, § 2.1-639.1 et seq.), the Virginia Governmental Frauds Act (Virginia Code, § 18.2-498.1 et seq.), and Articles 2 (Virginia Code, § 18.2-438 et seq.) and 3 (Virginia Code, § 18.2-446 et seq.) of Chapter 10 of Title 18.2 (related to bribery). The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

(Ord. No. 33,095, § 1, 9-11-84; Ord. No. 34,573, § 2, 6-30-87)

Sec. 33.1-87. - Proscribed participation by public employees in procurement transactions.

Except as may be specifically allowed by provisions of the State and Local Government Conflict of Interests Act (Virginia Code, section 2.1-639.1 et seq.), no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

- (1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or
- (2) The employee, the employee's partners, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five (5) percent; or
- (3) The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
- (4) The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(Ord. No. 33,095, § 1, 9-11-84; Ord. No. 34,573, § 3, 6-30-87)

Sec. 33.1-88. - Solicitation or acceptance of gifts.

No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The city may recover the value of anything conveyed in violation of this section.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-89. - Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the city unless the employee, or former employee, provides written

notification to the city manager prior to commencement of employment by that bidder, offeror or contractor.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-90. - Gifts by bidders, offerors, contractors or subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-91. - Kickbacks.

- (1) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.
- (2) No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- (3) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.
- (4) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the city and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-92. - Purchase of building materials, supplies or equipment from architect or engineer prohibited.

Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the city shall be sold by or purchased from any person employed as an independent contractor by the city to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association, or corporation in which such architect or engineer has a pecuniary interest.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-92.1. - Participation in bid preparation; limitation on submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposals for or on behalf of the city shall:

- (i) Submit a bid or proposal for that procurement or any portion thereof; or
- (ii) Disclose to any bidder or offeror information concerning the procurement that is not available to the public. However, the city may permit such person to submit a bid or proposal for that procurement or any portion thereof if the city determines that the exclusion of the person would

limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the city.

(Ord. No. 43,223, § 2, 9-9-08)

Sec. 33.1-92.2. - Certification of compliance required; penalty for false statements

- (1) The city may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this article.
- (2) Any public employee required to submit a certification as provided in subsection (1) who knowingly makes a false statement in the certification shall be punished as provided in section 33.1-95.

(Ord. No. 43,223, § 2, 9-9-08)

Sec. 33.1-92.3. - Misrepresentations prohibited.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.

(Ord. No. 43,223, § 2, 9-9-08)

Sec. 33.1-93. - Penalty for violation.

Willful violation of any provision of this article shall constitute a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

(Ord. No. 33,095, § 1, 9-11-84)

State Law reference— Similar provisions, Code of Virginia, § 11-80.

Sec. 33.1-94—33.1-100. - Reserved.

Initial: _____

ATTACHMENT C - NONDISCRIMINATION

Sec. 33.1-53. Employment discrimination by contractor prohibited (Virginia Code §2.2-4311)

Every contract over one thousand dollars (\$1,000.00) shall include or incorporate by reference the following provisions:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontractor or purchase order of over ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

(Ord. No. 33,095, § 1, 9-11-84; Ord. No. 39,912, § 1, 4-11-2000)

Initial: _____

ATTACHMENT D - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

I. CERTIFICATION.

The Bidder certifies, to the best of its knowledge and belief, that—

(i) The Bidder and/or any of its Principals—

(A) Are ___ are not ___ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal, state or local agency;

(B) Have ___ have not ___, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ___ are not ___ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Bidder has ___ has not ___, within a three-year period preceding this offer, had one or more contracts terminated for default by any federal, state or local agency.

“Principals,” for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

II. INSTRUCTIONS.

a. The Bidder shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

b. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Bidder’s responsibility. Failure of the Bidder to furnish a certification or provide such additional information as requested by the appropriate City purchasing official may render the Bidder non-responsible.

c. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

d. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Bidder/PPEs knowingly rendered an erroneous certification, in addition to other remedies available to the City, the appropriate City purchasing official may terminate the contract resulting from this solicitation for default.

III. **NOTICE.** This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

Name_____

Signature _____

Title _____

Date _____

Company _____

ATTACHMENT E - COMPLIANCE WITH FEDERAL IMMIGRATION LAW

I. CERTIFICATION.

The Bidder certifies, to the best of its knowledge and belief, that -

The Bidder and/or any of its Principals at all times during which any term of this Agreement is in effect, (Please fill in with your enterprise's complete name)

_____ does not and shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General.

II. INSTRUCTIONS.

a. The Bidder/Bidder shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

b. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Bidder's/Bidder's responsibility. Failure of the Bidder/Bidder to furnish a certification or provide such additional information as requested by the appropriate City purchasing official may render the Bidder/Bidder non-responsible.

c. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Bidder/Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

d. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Bidder/Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the City, the appropriate City purchasing official may terminate the contract resulting from this solicitation for default.

III. NOTICE.

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, Title 18, United States Code.

Name _____ Signature _____

Title _____ Date _____

Company _____

ATTACHMENT F - COMPLIANCE WITH STATE LAW – AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH

I. CERTIFICATION.

A. The Bidder/Bidder (Please fill in with your enterprise's complete name)

_____ certifies that it is organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50.

The identification number issued to Bidder/Vender by the State Corporation Commission:

B. Bidder/Bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall describe why it is not required to be so authorized:

II. INSTRUCTIONS.

a. The Bidder/Bidder shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

b. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Bidder's/Bidder's responsibility. Failure of the Bidder/Bidder to furnish a certification or provide such additional information as requested by the appropriate City purchasing official may render the Bidder/Bidder non-responsible.

c. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Bidder/Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

d. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Bidder/Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the City, the appropriate City purchasing official may terminate the contract resulting from this solicitation for default.

Name _____ Signature _____

Title _____ Date _____

Company _____

ATTACHMENT G – BID FORM

Attached as a separate Excel spreadsheet.